

## Federal Reserve System

## § 204.3

not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan; a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment or otherwise by operation of law or a transfer on the books or records of the institution; and

\* \* \* \* \*

(3) Any nonpersonal time deposit with a stated maturity or notice period of one and one-half years or more that permits any early withdrawal must be subject to a minimum early withdrawal penalty equal to at least thirty days' simple interest on the amount withdrawn for any withdrawal that occurs more than six days but within one and one-half years after the date of deposit. Any such account not subject to this minimum early withdrawal penalty will be regarded as a nonpersonal time deposit with an original maturity or notice period of from seven days to less than one and one-half years from the date of the deposit.<sup>9</sup>

\* \* \* \* \*

-----

\* \* \* \* \*

<sup>2</sup>A nonpersonal time deposit with a stated maturity of one and one-half years or more may be treated as having an original maturity of one and one-half years or more only if it is subject to the minimum penalty described in paragraph (f)(3) of this section.

\* \* \* \* \*

<sup>6</sup>[Reserved]

\* \* \* \* \*

<sup>9</sup>See Footnote 1 for treatment of accounts existing on March 31, 1986 and for exceptions to the imposition of the early withdrawal penalties imposed by this part. The penalty required by this paragraph (f)(3) of this section and that required by paragraph (c)(1) of this section need not be aggregated.

\* \* \* \* \*

### § 204.3 Computation and maintenance.

(a) *Maintenance of required reserves.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement Corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and § 204.4 and the ratios pre-

scribed in § 204.9. Reserve deficiency charges shall be assessed for deficiencies in required reserves in accordance with the provisions of § 204.7. Every depository institution, U.S. branch or agency of a foreign bank, and Edge or Agreement Corporation shall file reports of deposits in accordance with the instructions of the Board, based on the level of its deposits and reservable liabilities consistent with the Board's need for data to carry out its responsibility to monitor and control monetary and credit aggregates. For purposes of this part, the obligations of a majority owned (50% or more) U.S. subsidiary (except an Edge or Agreement Corporation) of a depository institution shall be regarded as obligations of the parent depository institution.

(1) *United States branches and agencies of foreign banks.* (i) A foreign bank's United States branches and agencies operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) United States branches and agencies of the same foreign bank shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.9(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same foreign bank until the amount of the tranche is exhausted. The foreign bank shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. If necessary in order to avoid under-utilization of the low reserve tranche, the allocation may be changed at the beginning of a calendar month. Under other circumstances, the low reserve tranche may be reallocated at the beginning of a calendar year.

(2) *Edge and Agreement Corporations.*

(i) An Edge or Agreement Corporation's offices operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) An Edge or Agreement Corporation shall, if possible, assign the low reserve tranche on transaction accounts (§204.9(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same institution until the amount of the tranche is exhausted. An Edge or Agreement Corporation shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. If necessary in order to avoid under-utilization of the low reserve tranche, the allocation may be changed at the beginning of a calendar month. Under other circumstances, the low reserve tranche may be reallocated at the beginning of a calendar year.

(3) *Allocation of exemption from reserve requirements.* (i) In determining the reserve requirements of a depository institution, the exemption provided for in §204.9(a) shall apply in the following order of priorities:

(A) First, to net transaction accounts that are first authorized by federal law in any state after April 1, 1980; and

(B) Second, to other net transaction accounts.

(ii) A depository institution, United States branches and agencies of the same foreign bank, or an Edge or Agreement corporation shall, if possible, assign the reserve requirement exemption of §204.9(a) to only one office or to a group of offices filing a single aggregated report of deposits. If the reserve requirement exemption cannot be fully utilized by a single office or by a group of offices filing a single report

of deposits, the unused portion of the exemption may be assigned to other offices of the same institution until the amount of the exemption or reservable liabilities is exhausted. A depository institution, foreign bank, or Edge or Agreement corporation shall determine this assignment subject to the restriction that if a portion of the exemption is assigned to an office in a particular state, any unused portion must first be assigned to other offices located within the same state and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The exemption may be reallocated at the beginning of a calendar year, or, if necessary to avoid underutilization of the exemption, at the beginning of a calendar month. The amount of the reserve requirement exemption allocated to an office or group of offices may not exceed the amount of the low reserve tranche allocated to such office or offices under this paragraph.

(b) *Form of reserves.* Reserves shall be held in the form of (1) vault cash, (2) a balance maintained directly with the Federal Reserve Bank in the District in which it is located, or (3) a pass through account. Reserves held in the form of a pass through account shall be considered to be a balance maintained with the Federal Reserve.

(c) *Computation of required reserves for institutions that report on a weekly basis.*

(1) Required reserves are computed on the basis of daily average balances of deposits and Eurocurrency liabilities during a fourteen-day period ending every second Monday (the "computation period"). Reserve requirements are computed by applying the ratios prescribed in §204.9 to the classes of deposits and Eurocurrency liabilities of the institution. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a fourteen-day period (the "maintenance period") which begins on a Thursday and ends on the second Wednesday thereafter.

(2) A reserve balance shall be maintained during a given maintenance period based on the daily average net

transaction accounts held by the depository institution during the computation period that began immediately prior to the beginning of the maintenance period.

(3) In determining the reserve balance that is required to be maintained with the Federal Reserve, the daily average vault cash held during the computation period that ended 3 days prior to the beginning of the maintenance period is deducted from the amount of the institution's required reserves.

(d) *Computation of required reserves for institutions that report on a quarterly basis.* For a depository institution that is permitted to report quarterly, required reserves are computed on the basis of the depository institution's daily average deposit balances during a seven-day computation period that begins on the third Tuesday of March, June, September, and December. In determining the reserve balance that such a depository institution is required to maintain with the Federal Reserve, the daily average vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding period that begins on the fourth Thursday following the end of the institution's computation period and ends on the fourth Wednesday after the close of the institution's next computation period.

(e) *Computation of transaction accounts.* Overdrafts in demand deposit or other transaction accounts are not to be treated as negative demand deposits or negative transaction accounts and shall not be netted since overdrafts are properly reflected on an institution's books as assets. However, where a customer maintains multiple transaction accounts with a depository institution, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against balances in other related transaction accounts for reserve requirement purposes.

(f) *Deductions allowed in computing reserves.* (1) In determining the reserve balance required under this part, the amount of cash items in process of col-

lection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and agreement corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts.

(2) United States branches and agencies of a foreign bank may not deduct balances due from another United States branch or agency of the same foreign bank, and United States offices of an Edge or Agreement Corporation may not deduct balances due from another United States office of the same Edge Corporation.

(3) Balances "due from other depository institutions" do not include balances due from Federal Reserve Banks, pass through accounts, or balances (payable in dollars or otherwise) due from banking offices located outside the United States. An institution exercising fiduciary powers may not include in "balances due from other depository institutions" amounts of trust funds deposited with other banks and due to it as a trustee or other fiduciary.

(g) *Availability of cash items as reserves.* Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR part 210). If a depository institution draws against items before that time, the charge will be made to its reserve account if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and to the reserve deficiency charges provided by this part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve bank has not received payment in actually and finally collected funds.

(h) *Carryover of excesses or deficiencies.* Any excess or deficiency in a depository institution's account that is held directly or indirectly with a Federal Reserve Bank shall be carried over and applied to that account in the next maintenance period as specified in this paragraph. The amount of any such excess or deficiency that is carried over shall not exceed the greater of:

(1) The amount obtained by multiplying .04 times the sum of the depository institution's required reserves and the depository institution's required clearing balance, if any, and then subtracting from this product the depository institution's required charge-free band, if any; or

(2) \$50,000, minus the depository institution's required charge-free band, if any. Any carryover not offset during the next period may not be carried over to subsequent periods.

(i) *Pass-through rules*—(1) *Procedure.*

(i) A nonmember depository institution required to maintain reserve balances ("respondent") may select only one institution to pass through its required reserves. Eligible institutions through which respondent required reserve balances may be passed ("correspondents") are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to the appropriate Federal Reserve office. The correspondent placing funds with the Federal Reserve on behalf of respondents will be responsible for reserve account maintenance as described in paragraphs (i) (3) and (4) of this section.

(ii) Respondent depository institutions or pass-through correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement and/or termination of the existing arrangement to the Fed-

eral Reserve Bank in whose territory the respondent is located. The time period required for such a change to be effected shall be specified by each Reserve Bank in its discretion.

(iii) U.S. branches and agencies of foreign banks and Edge and Agreement Corporations may (a) act as pass-through correspondents for any nonmember institution required to maintain reserves or (b) pass their own required reserve balances through correspondents. In accordance with the provision set forth in paragraph (i)(3) of this section, the U.S. branches and agencies of a foreign bank or offices of an Edge and Agreement Corporation filing a single aggregated report of deposits may designate any one of the other U.S. offices of the same institution to serve as a pass-through correspondent for all of the offices filing such a single aggregated report of deposits.

(2) *Reports.* (i) Every depository institution that maintains transaction accounts or nonpersonal time deposits is required to file its report of deposits (or any other required form or statement) directly with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances.

(ii) The Federal Reserve Bank receiving such reports shall notify the reporting depository institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the correspondent passing respondent reserve balances through to the Federal Reserve of its respondent's required reserve balances.

(iii) The Federal Reserve will not hold a correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents to their local Federal Reserve Banks.

(3) *Account maintenance.* (i) A correspondent that passes through required reserve balances of respondents whose main offices are located in the same Federal Reserve territory in which the main office of the correspondent is located shall have the option of maintaining such required reserve balances in one of two ways:

## Federal Reserve System

## § 204.3

(a) A correspondent may maintain such balances, along with the correspondent's own required reserve balances, in a single commingled account at the Federal Reserve Bank office in whose territory the correspondent's main office is located, or

(b) A correspondent may maintain its own required reserve balance in an account with the Federal Reserve Bank office in whose territory its main office is located. The correspondent, in addition, would maintain in a separate commingled account the required reserve balances passed through for respondents whose main offices are located in the same Federal Reserve territory as that of the main office of the correspondent.

(ii) A correspondent that passes through required reserve balances of respondents whose main offices are located outside the Federal Reserve territory in which the main office of the correspondent is located shall maintain such required reserve balances in a separate commingled account at each Federal Reserve office in whose territory the main offices of such respondents are located.

(iii) A Reserve Bank may, at its discretion, require a pass-through correspondent to consolidate in a single account the reserve balances of all of its respondents whose main offices are located in any territory of that Federal Reserve District.

(4) *Responsibilities of parties.* (i) Each individual depository institution is responsible for maintaining its required reserve balance with the Federal Reserve Bank either directly or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Reserve Bank will compare the total reserve balance required to be maintained in each reserve account with the total actual reserve balance held in such reserve account for purposes of determining required reserve deficiencies, imposing or waiving charges for deficiencies in required reserves, and for other reserve maintenance purposes. A charge for a deficiency in the aggregate level of the required reserve balance will be im-

posed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Federal Reserve System requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Federal Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under §204.6 of this part) held by respondent(s) will be credited to the commingled reserve account(s) maintained by the correspondent.

(5) *Services.* (i) A depository institution maintaining its reserve balances on a pass-through basis may obtain available Federal Reserve System services directly from its local Federal Reserve office. For this purpose, the pass-through account in which a respondent's required reserve balance is maintained may be used by the respondent for the posting of entries arising from transactions involving the use of such Federal Reserve services, if the posting of these types of transactions has been authorized by the correspondent and the Federal Reserve. For example, access to the wire transfer, securities transfer, and settlement services that involve charges to the commingled reserve account at the Reserve Bank will require authorization from the correspondent and the Reserve Bank for the type of transaction that is occurring.

(ii) In addition, in obtaining Federal Reserve services, respondents maintaining their required reserves on a pass-through basis may choose to have entries arising from the use of Federal Reserve services posted to:

(a) With the prior authorization of all parties concerned, the reserve account maintained by any institution at a Federal Reserve Bank, or (b) an account maintained for clearing purposes at a Federal Reserve Bank by the respondent.

(iii) Accounts at Federal Reserve Banks consisting only of respondents' reserve balances that are passed through by a correspondent to a Federal Reserve Bank may be used only for transactions of respondents. A correspondent will not be permitted to use such pass-through accounts for purposes other than serving its respondents' needs.

(iv) A correspondent may not apply for Federal Reserve credit on behalf of a respondent. Rather, a respondent should apply directly to its Federal Reserve Bank for credit. Any Federal Reserve credit obtained by a respondent may be credited, at the respondent's option and with the approval of the parties concerned, to the reserve account in which its required reserves are maintained by a correspondent, to a clearing account maintained by the respondent, or to any account to which the respondent is authorized to post entries arising from the use of Federal Reserve services.

[45 FR 56018, Aug. 22, 1980, as amended at 45 FR 58100, Sept. 2, 1980; 45 FR 81537, Dec. 11, 1980; 46 FR 32430, June 23, 1981; 47 FR 44707, Oct. 12, 1982; 47 FR 55206, Dec. 8, 1982; 48 FR 17335, 17336, Apr. 22, 1983; 51 FR 9635, Mar. 20, 1986; 55 FR 50541, Dec. 7, 1990; 57 FR 38417, 38427, Aug. 25, 1992; 61 FR 69025, Dec. 31, 1996]

EFFECTIVE DATE NOTE: At 61 FR 69025, Dec. 31, 1996, § 204.3 was amended by removing paragraph (a)(3)(i) and paragraph designation (a)(3)(ii); revising paragraph (f); in paragraphs (h)(1) and (2) by revising the words "required clearing balance penalty-free band" to read "required charge-free band"; in paragraph (i)(1)(ii) in the last sentence by removing "in its operating circular" and adding in its place "in its discretion"; in paragraph (i)(4)(ii) by removing "penalties" in the second sentence and "penalty" in the third sentence and adding in their place "charges" and "charge", respectively; and by removing paragraph (i)(5)(iv), effective Apr. 1, 1997. For the convenience of the user, the superseded text is set forth as follows:

**§ 204.3 Computation and maintenance.**

\* \* \* \* \*

(f) \* \* \*

(1) In determining the reserve balance required under this part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and Agreement Corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts. However, if a depository institution maintains any transaction accounts that are first authorized under Federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States shall be deducted from the institution's remaining transaction accounts.

\* \* \* \* \*

**§ 204.4 Transitional adjustments in mergers**

In cases of mergers and consolidations of depository institutions, the amount of reserves that shall be maintained by the surviving institution shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarters following merger or consolidation	Percentage applied to difference to compute amount to be subtracted
1 .....	87.5
2 .....	75.0
3 .....	62.5
4 .....	50.0
5 .....	37.5